



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

KELVIN A. DUNBAR,
Plaintiff,

vs.

THE NEW ALLENTOWN
POLICE DEPARTMENT et al.
Defendants.

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CIVIL ACTION NO. 9:08-2436-HFF-BM

ORDER

This case was filed as a 42 U.S.C. § 1983 action. Plaintiff is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that Defendants' motion for summary judgment be granted, all claims against these Defendants be dismissed, and the claims asserted against Defendant Warhol be dismissed at this time. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on February 24, 2010, but Plaintiff failed to file any objections to the Report.* In the absence of such objections, the Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report to the extent that it does not contradict this Order and incorporates it herein. Therefore, it is the judgment of the Court that Defendants' motion for summary judgment is **GRANTED** as to all federal claims, all federal claims against these Defendants are **DISMISSED**, and the federal claims asserted against Defendant Warhol are **DISMISSED** at this time.

To the extent that Plaintiff has set forth any state causes of action in his pleadings, those claims are **DISMISSED** without prejudice so that Plaintiff can pursue them in state court if he so desires.

Any pending motions are rendered **MOOT**.

IT IS SO ORDERED.

Signed this 17th day of March, 2010, in Spartanburg, South Carolina.

s/ Henry F. Floyd
HENRY F. FLOYD
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.

*Plaintiff did, however, file a document titled "Notice of Appeal and Motion to Amend Claim."